

AMENDED IN SENATE APRIL 4, 2011

**SENATE BILL**

**No. 368**

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**Introduced by Senator Liu**

February 15, 2011

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An act to ~~add Section 1529.3 to the Health and Safety~~ amend Sections 319, 361, 706.5, 726, 4514, 4646, 4646.5, 4648, and 4701.6 of the Welfare and Institutions Code, relating to ~~foster care~~ developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 368, as amended, Liu. ~~Foster parent training: teen foster youth.~~  
*Developmental services: decisionmaking.*

Existing law authorizes a peace officer, without a warrant, to take into temporary custody a minor when the officer has reasonable cause for believing that the minor is in danger, as specified. Existing law provides for a hearing process to deem the child a dependent child of the court. Under existing law, during the hearing process the court is authorized to temporarily limit the right of a parent or guardian to make educational decisions for the child and to temporarily appoint, or make itself, these decisions, as specified. Under existing law, once the minor is adjudged a dependent child of the court, the court may limit the ability of a parent or guardian to make educational decisions for the minor.

This bill would authorize the court to limit the right of a parent or guardian to make decisions about developmental services and to appoint a responsible adult, or to make itself, those decisions, as specified.

Under existing law, a minor may be adjudged a ward of the court for specified reasons. The court may limit the control to be exercised over the ward by a parent or guardian, including educational

*decisionmaking, and appoint a responsible adult, as specified, to make those decisions.*

*This bill would extend those provisions to decisions relating to developmental services.*

*Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements through an individual program planning process. Existing law defines “authorized representative” for purposes of the act to include a person having legal custody of a minor claimant or a person with written authority to act as representative of the claimant.*

*This bill would add to the definition of “authorized representative” a responsible adult appointed through a court order made pursuant to the limitation of developmental services decisionmaking authority, as set forth above, and who does not have a conflict of interest, as defined. The bill would give the authorized representative rights to access the minor’s information, participate in the IPP process, participate in the fair hearing process, and provide written consent for purposes of establishing eligibility for regional center services and supports to the same extent as that provided under the law to parents, legal guardians, and conservators.*

~~Existing law requires the State Department of Social Services to license community care facilities, including facilities that provide foster care services for children. A violation of community care facility provisions is a misdemeanor. Existing law regulates foster family homes and provides for their licensure by certified foster family agencies, the county, or the State Department of Social Services. Existing law requires every licensed foster parent to complete specified preplacement training and additional annual training.~~

~~This bill would require the training for licensed foster parents to also include specified training in issues relevant to providing foster care for teenagers. The training required by the bill would be included within existing preplacement and postplacement training program requirements, and would not increase the number of required training hours for the foster parent. By changing the definition of a crime, this bill would create a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 319 of the Welfare and Institutions Code  
2     is amended to read:

3     319. (a) At the initial petition hearing, the court shall examine  
4     the child's parents, guardians, or other persons having relevant  
5     knowledge and hear the relevant evidence as the child, the child's  
6     parents or guardians, the petitioner, or their counsel desires to  
7     present. The court may examine the child, as provided in Section  
8     350.

9     (b) The social worker shall report to the court on the reasons  
10    why the child has been removed from the parent's physical custody,  
11    the need, if any, for continued detention, the available services  
12    and the referral methods to those services that could facilitate the  
13    return of the child to the custody of the child's parents or guardians,  
14    and whether there are any relatives who are able and willing to  
15    take temporary physical custody of the child. The court shall order  
16    the release of the child from custody unless a prima facie showing  
17    has been made that the child comes within Section 300, the court  
18    finds that continuance in the parent's or guardian's home is  
19    contrary to the child's welfare, and any of the following  
20    circumstances exist:

21    (1) There is a substantial danger to the physical health of the  
22    child or the child is suffering severe emotional damage, and there  
23    are no reasonable means by which the child's physical or emotional  
24    health may be protected without removing the child from the  
25    parent's or guardian's physical custody.

26    (2) There is substantial evidence that a parent, guardian, or  
27    custodian of the child is likely to flee the jurisdiction of the court.

28    (3) The child has left a placement in which he or she was placed  
29    by the juvenile court.

1 (4) The child indicates an unwillingness to return home, if the  
2 child has been physically or sexually abused by a person residing  
3 in the home.

4 (c) If the matter is continued pursuant to Section 322 or for any  
5 other reason, the court shall find that the continuance of the child  
6 in the parent's or guardian's home is contrary to the child's welfare  
7 at the initial petition hearing or order the release of the child from  
8 custody.

9 (d) (1) The court shall also make a determination on the record,  
10 referencing the social worker's report or other evidence relied  
11 upon, as to whether reasonable efforts were made to prevent or  
12 eliminate the need for removal of the child from his or her home,  
13 pursuant to subdivision (b) of Section 306, and whether there are  
14 available services that would prevent the need for further detention.  
15 Services to be considered for purposes of making this determination  
16 are case management, counseling, emergency shelter care,  
17 emergency in-home caretakers, out-of-home respite care, teaching  
18 and demonstrating homemakers, parenting training, transportation,  
19 and any other child welfare services authorized by the State  
20 Department of Social Services pursuant to Chapter 5 (commencing  
21 with Section 16500) of Part 4 of Division 9. The court shall also  
22 review whether the social worker has considered whether a referral  
23 to public assistance services pursuant to Chapter 2 (commencing  
24 with Section 11200) and Chapter 7 (commencing with Section  
25 14000) of Part 3, Chapter 1 (commencing with Section 17000) of  
26 Part 5, and Chapter 10 (commencing with Section 18900) of Part  
27 6 of Division 9 would have eliminated the need to take temporary  
28 custody of the child or would prevent the need for further detention.

29 (2) If the child can be returned to the custody of his or her parent  
30 or guardian through the provision of those services, the court shall  
31 place the child with his or her parent or guardian and order that  
32 the services shall be provided. If the child cannot be returned to  
33 the physical custody of his or her parent or guardian, the court  
34 shall determine if there is a relative who is able and willing to care  
35 for the child, and has been assessed pursuant to paragraph (1) of  
36 subdivision (d) of Section 309.

37 (e) If a court orders a child detained, the court shall state the  
38 facts on which the decision is based, specify why the initial removal  
39 was necessary, reference the social worker's report or other  
40 evidence relied upon to make its determination whether

1 continuance in the home of the parent or legal guardian is contrary  
2 to the child's welfare, order temporary placement and care of the  
3 child to be vested with the county child welfare department pending  
4 the hearing held pursuant to Section 355 or further order of the  
5 court, and order services to be provided as soon as possible to  
6 reunify the child and his or her family if appropriate.

7 (f) (1) If the child is not released from custody, the court may  
8 order that the child shall be placed in the assessed home of a  
9 relative, in an emergency shelter or other suitable licensed place,  
10 in a place exempt from licensure designated by the juvenile court,  
11 or in the assessed home of a nonrelative extended family member  
12 as defined in Section 362.7 for a period not to exceed 15 judicial  
13 days.

14 (2) As used in this section, "relative" means an adult who is  
15 related to the child by blood, adoption, or affinity within the fifth  
16 degree of kinship, including stepparents, stepsiblings, and all  
17 relatives whose status is preceded by the words "great,"  
18 "great-great," or "grand," or the spouse of any of these persons,  
19 even if the marriage was terminated by death or dissolution.  
20 However, only the following relatives shall be given preferential  
21 consideration for placement of the child: an adult who is a  
22 grandparent, aunt, uncle, or sibling of the child.

23 (3) The court shall consider the recommendations of the social  
24 worker based on the assessment pursuant to paragraph (1) of  
25 subdivision (d) of Section 309 of the relative's home, including  
26 the results of a criminal records check and prior child abuse  
27 allegations, if any, prior to ordering that the child be placed with  
28 a relative. The court shall order the parent to disclose to the social  
29 worker the names, residences, and any known identifying  
30 information of any maternal or paternal relatives of the child. The  
31 social worker shall initiate the assessment pursuant to Section  
32 361.3 of any relative to be considered for continuing placement.

33 (g) (1) At the initial hearing upon the petition filed in  
34 accordance with subdivision (c) of Rule 5.520 of the California  
35 Rules of Court or anytime thereafter up until the time that the  
36 minor is adjudged a dependent child of the court or a finding is  
37 made dismissing the petition, the court may temporarily limit the  
38 right of the parent or guardian to make educational *or*  
39 *developmental services* decisions for the child and temporarily  
40 appoint a responsible adult to make educational *or developmental*

1 *services* decisions for the child if all of the following conditions  
2 are found:

3 (A) The parent or guardian is unavailable, unable, or unwilling  
4 to exercise educational *or developmental services* rights for the  
5 child.

6 (B) The county placing agency has made diligent efforts to  
7 locate and secure the participation of the parent or guardian in  
8 educational *or developmental services* decisionmaking.

9 (C) The child's educational *and developmental services* needs  
10 cannot be met without the temporary appointment of a responsible  
11 adult.

12 (2) If the court cannot identify a responsible adult to make  
13 educational decisions for the child and the appointment of a  
14 surrogate parent, as defined in subdivision (a) of Section 56050  
15 of the Education Code, is not warranted, the court may, with the  
16 input of any interested person, make educational decisions for the  
17 child. *If the court cannot identify a responsible adult to make*  
18 *developmental services decisions for the child, the court may, with*  
19 *the input of the any interested person, make developmental services*  
20 *decisions for the child.* If the court makes educational *or*  
21 *developmental services* decisions for the child, the court shall also  
22 issue appropriate orders to ensure that every effort is made to  
23 identify a responsible adult to make future educational *or*  
24 *developmental services* decisions for the child.

25 (3) Any temporary appointment of a responsible adult and  
26 temporary limitation on the right of the parent or guardian to make  
27 educational *or developmental services* decisions for the child shall  
28 be specifically addressed in the court order. Any order made under  
29 this section shall expire at the conclusion of the hearing held  
30 pursuant to Section 361 or upon dismissal of the petition. Upon  
31 the entering of disposition orders, any additional needed limitation  
32 on the parent's or guardian's educational *or developmental services*  
33 rights shall be addressed pursuant to Section 361.

34 *SEC. 2. Section 361 of the Welfare and Institutions Code is*  
35 *amended to read:*

36 361. (a) In all cases in which a minor is adjudged a dependent  
37 child of the court on the ground that the minor is a person described  
38 by Section 300, the court may limit the control to be exercised  
39 over the dependent child by any parent or guardian and shall by  
40 its order clearly and specifically set forth all those limitations. Any

1 limitation on the right of the parent or guardian to make educational  
2 *or developmental services* decisions for the child shall be  
3 specifically addressed in the court order. The limitations may not  
4 exceed those necessary to protect the child. If the court specifically  
5 limits the right of the parent or guardian to make educational *or*  
6 *developmental services* decisions for the child, the court shall at  
7 the same time appoint a responsible adult to make educational *or*  
8 *developmental services* decisions for the child until one of the  
9 following occurs:

10 (1) The minor reaches 18 years of age, unless the child chooses  
11 not to make educational *or developmental services* decisions for  
12 himself or herself, or is deemed by the court to be incompetent.

13 (2) Another responsible adult is appointed to make educational  
14 *or developmental services* decisions for the minor pursuant to this  
15 section.

16 (3) The right of the parent or guardian to make educational *or*  
17 *developmental services* decisions for the minor is fully restored.

18 (4) A successor guardian or conservator is appointed.

19 (5) The child is placed into a planned permanent living  
20 arrangement pursuant to paragraph (3) of subdivision (g) of Section  
21 366.21, Section 366.22, or Section 366.26, at which time, *for*  
22 *educational decisionmaking*, the foster parent, relative caretaker,  
23 or nonrelative extended family member as defined in Section 362.7,  
24 has the right to represent the child in educational matters pursuant  
25 to Section 56055 of the Education Code, *and for decisions relating*  
26 *to developmental services, the foster parent, relative caregiver,*  
27 *or nonrelative extended family member of the planned permanent*  
28 *living arrangement shall become the authorized representative for*  
29 *the child pursuant to Section 4701.6 unless the court specifies*  
30 *otherwise in a court order.*

31 An individual who would have a conflict of interest in  
32 representing the child may not be appointed to make educational  
33 *or developmental services* decisions. For purposes of this section,  
34 “an individual who would have a conflict of interest,” means a  
35 person having any interests that might restrict or bias his or her  
36 ability to make educational *or developmental services* decisions,  
37 including, but not limited to, those conflicts of interest prohibited  
38 by Section 1126 of the Government Code, and the receipt of  
39 compensation or attorneys’ fees for the provision of services  
40 pursuant to this section. A foster parent may not be deemed to

1 have a conflict of interest solely because he or she receives  
2 compensation for the provision of services pursuant to this section.

3 If the court is unable to appoint a responsible adult to make  
4 educational decisions for the child and paragraphs (1) to (5),  
5 inclusive, do not apply, and the child has either been referred to  
6 the local educational agency for special education and related  
7 services, or has a valid individualized education program, the court  
8 shall refer the child to the local educational agency for appointment  
9 of a surrogate parent pursuant to Section 7579.5 of the Government  
10 Code.

11 If the court cannot identify a responsible adult to make  
12 educational decisions for the child, the appointment of a surrogate  
13 parent as defined in subdivision (a) of Section 56050 of the  
14 Education Code is not warranted, and there is no foster parent to  
15 exercise the authority granted by Section 56055 of the Education  
16 Code, the court may, with the input of any interested person, make  
17 educational decisions for the child.

18 *If the court cannot identify a responsible adult to make*  
19 *developmental services decisions for the child, the court may, with*  
20 *the input of any interested person, make developmental services*  
21 *decisions for the child.*

22 All educational and school placement decisions shall seek to  
23 ensure that the child is in the least restrictive educational programs  
24 and has access to the academic resources, services, and  
25 extracurricular and enrichment activities that are available to all  
26 pupils. In all instances, educational and school placement decisions  
27 shall be based on the best interests of the child.

28 (b) Subdivision (a) does not limit the ability of a parent to  
29 voluntarily relinquish his or her child to the State Department of  
30 Social Services or to a licensed county adoption agency at any  
31 time while the child is a dependent child of the juvenile court, if  
32 the department or agency is willing to accept the relinquishment.

33 (c) A dependent child may not be taken from the physical  
34 custody of his or her parents or guardian or guardians with whom  
35 the child resides at the time the petition was initiated, unless the  
36 juvenile court finds clear and convincing evidence of any of the  
37 following circumstances listed in paragraphs (1) to (5), inclusive,  
38 and, in an Indian child custody proceeding, paragraph (6):

39 (1) There is or would be a substantial danger to the physical  
40 health, safety, protection, or physical or emotional well-being of



1 the minor if the minor were returned home, and there are no  
2 reasonable means by which the minor's physical health can be  
3 protected without removing the minor from the minor's parent's  
4 or guardian's physical custody. The fact that a minor has been  
5 adjudicated a dependent child of the court pursuant to subdivision  
6 (e) of Section 300 shall constitute prima facie evidence that the  
7 minor cannot be safely left in the physical custody of the parent  
8 or guardian with whom the minor resided at the time of injury.  
9 The court shall consider, as a reasonable means to protect the  
10 minor, the option of removing an offending parent or guardian  
11 from the home. The court shall also consider, as a reasonable means  
12 to protect the minor, allowing a nonoffending parent or guardian  
13 to retain physical custody as long as that parent or guardian  
14 presents a plan acceptable to the court demonstrating that he or  
15 she will be able to protect the child from future harm.

16 (2) The parent or guardian of the minor is unwilling to have  
17 physical custody of the minor, and the parent or guardian has been  
18 notified that if the minor remains out of their physical custody for  
19 the period specified in Section 366.26, the minor may be declared  
20 permanently free from their custody and control.

21 (3) The minor is suffering severe emotional damage, as indicated  
22 by extreme anxiety, depression, withdrawal, or untoward aggressive  
23 behavior toward himself or herself or others, and there are no  
24 reasonable means by which the minor's emotional health may be  
25 protected without removing the minor from the physical custody  
26 of his or her parent or guardian.

27 (4) The minor or a sibling of the minor has been sexually abused,  
28 or is deemed to be at substantial risk of being sexually abused, by  
29 a parent, guardian, or member of his or her household, or other  
30 person known to his or her parent, and there are no reasonable  
31 means by which the minor can be protected from further sexual  
32 abuse or a substantial risk of sexual abuse without removing the  
33 minor from his or her parent or guardian, or the minor does not  
34 wish to return to his or her parent or guardian.

35 (5) The minor has been left without any provision for his or her  
36 support, or a parent who has been incarcerated or institutionalized  
37 cannot arrange for the care of the minor, or a relative or other adult  
38 custodian with whom the child has been left by the parent is  
39 unwilling or unable to provide care or support for the child and

1 the whereabouts of the parent is unknown and reasonable efforts  
2 to locate him or her have been unsuccessful.

3 (6) In an Indian child custody proceeding, continued custody  
4 of the child by the parent or Indian custodian is likely to result in  
5 serious emotional or physical damage to the child, and that finding  
6 is supported by testimony of a “qualified expert witness” as  
7 described in Section 224.6.

8 (A) Stipulation by the parent, Indian custodian, or the Indian  
9 child’s tribe, or failure to object, may waive the requirement of  
10 producing evidence of the likelihood of serious damage only if the  
11 court is satisfied that the party has been fully advised of the  
12 requirements of the Indian Child Welfare Act (25 U.S.C. Sec. 1901  
13 et seq.), and has knowingly, intelligently, and voluntarily waived  
14 them.

15 (B) Failure to meet non-Indian family and child-rearing  
16 community standards, or the existence of other behavior or  
17 conditions that meet the removal standards of this section, will not  
18 support an order for placement in the absence of the finding in this  
19 paragraph.

20 (d) The court shall make a determination as to whether  
21 reasonable efforts were made to prevent or to eliminate the need  
22 for removal of the minor from his or her home or, if the minor is  
23 removed for one of the reasons stated in paragraph (5) of  
24 subdivision (c), whether it was reasonable under the circumstances  
25 not to make any of those efforts, or, in the case of an Indian child  
26 custody proceeding, whether active efforts as required in Section  
27 361.7 were made and that these efforts have proved unsuccessful.  
28 The court shall state the facts on which the decision to remove the  
29 minor is based.

30 (e) The court shall make all of the findings required by  
31 subdivision (a) of Section 366 in either of the following  
32 circumstances:

33 (1) The minor has been taken from the custody of his or her  
34 parent or guardian and has been living in an out-of-home placement  
35 pursuant to Section 319.

36 (2) The minor has been living in a voluntary out-of-home  
37 placement pursuant to Section 16507.4.

38 *SEC. 3. Section 706.5 of the Welfare and Institutions Code is*  
39 *amended to read:*

1 706.5. (a) If placement in foster care is recommended by the  
2 probation officer, or where the minor is already in foster care  
3 placement or pending placement pursuant to an earlier order, the  
4 social study prepared by the probation officer that is received into  
5 evidence at disposition pursuant to Section 706 shall include a  
6 case plan, as described in Section 706.6. If the court elects to hold  
7 the first status review at the disposition hearing, the social study  
8 shall also include, but not be limited to, the factual material  
9 described in subdivision (c).

10 (b) If placement in foster care is not recommended by the  
11 probation officer prior to disposition, but the court orders foster  
12 care placement, the court shall order the probation officer to prepare  
13 a case plan, as described in Section 706.6, within 30 days of the  
14 placement order. The case plan shall be filed with the court.

15 (c) At each status review hearing, the social study shall include,  
16 but not be limited to, an updated case plan as described in Section  
17 706.6 and the following information:

18 (1) The continuing necessity for and appropriateness of the  
19 placement.

20 (2) The extent of the probation department's compliance with  
21 the case plan in making reasonable efforts to safely return the  
22 minor to the minor's home or to complete whatever steps are  
23 necessary to finalize the permanent placement of the minor.

24 (3) The extent of progress that has been made by the minor and  
25 parent or guardian toward alleviating or mitigating the causes  
26 necessitating placement in foster care.

27 (4) If the first permanency planning hearing has not yet occurred,  
28 the social study shall include the likely date by which the minor  
29 may be returned to and safely maintained in the home or placed  
30 for adoption, appointed a legal guardian, permanently placed with  
31 a fit and willing relative, or referred to another planned permanent  
32 living arrangement.

33 (5) Whether the minor has been or will be referred to educational  
34 services and what services the minor is receiving, including special  
35 education and related services if the minor has exceptional needs  
36 as described in Part 30 (commencing with Section 56000) of  
37 Division 4 of Title 2 of the Education Code or accommodations  
38 if the child has disabilities as described in Chapter 16 (commencing  
39 with Section 701) of Title 29 of the United States Code Annotated.  
40 The probation officer or child advocate shall solicit comments

1 from the appropriate local education agency prior to completion  
2 of the social study.

3 (6) If the parent or guardian is unwilling or unable to participate  
4 in making an educational *or developmental services* decision for  
5 his or her child, or if other circumstances exist that compromise  
6 the ability of the parent or guardian to make educational *or*  
7 *developmental services* decisions for the child, the probation  
8 department shall consider whether the right of the parent or  
9 guardian to make educational *or developmental services* decisions  
10 for the minor should be limited. If the study makes that  
11 recommendation, it shall identify whether there is a responsible  
12 adult available to make educational *or developmental services*  
13 decisions for the minor pursuant to Section 726.

14 (d) At each permanency planning hearing, the social study shall  
15 include, but not be limited to, an updated case plan as described  
16 in Section 706.6, the factual material described in subdivision (c)  
17 of this section, and a recommended permanent plan for the minor.

18 SEC. 4. Section 726 of the Welfare and Institutions Code is  
19 amended to read:

20 726. (a) In all cases in which a minor is adjudged a ward or  
21 dependent child of the court, the court may limit the control to be  
22 exercised over the ward or dependent child by any parent or  
23 guardian and shall in its order, clearly and specifically set forth all  
24 those limitations, but no ward or dependent child shall be taken  
25 from the physical custody of a parent or guardian, unless upon the  
26 hearing the court finds one of the following facts:

27 (1) That the parent or guardian is incapable of providing or has  
28 failed or neglected to provide proper maintenance, training, and  
29 education for the minor.

30 (2) That the minor has been tried on probation while in custody  
31 and has failed to reform.

32 (3) That the welfare of the minor requires that custody be taken  
33 from the minor's parent or guardian.

34 (b) Whenever the court specifically limits the right of the parent  
35 or guardian to make educational *or developmental services*  
36 decisions for the minor, the court shall at the same time appoint a  
37 responsible adult to make educational *or developmental services*  
38 decisions for the child until one of the following occurs:

1 (1) The minor reaches 18 years of age, unless the child chooses  
2 not to make educational *or developmental services* decisions for  
3 himself or herself, or is deemed by the court to be incompetent.

4 (2) Another responsible adult is appointed to make educational  
5 *or developmental services* decisions for the minor pursuant to this  
6 section.

7 (3) The right of the parent or guardian to make educational *or*  
8 *developmental services* decisions for the minor is fully restored.

9 (4) A successor guardian or conservator is appointed.

10 (5) The child is placed into a planned permanent living  
11 arrangement pursuant to paragraph (5) or (6) of subdivision (b) of  
12 Section 727.3, at which time, *for educational decisionmaking*, the  
13 foster parent, relative caretaker, or nonrelative extended family  
14 member as defined in Section 362.7 has the right to represent the  
15 child in educational matters pursuant to Section 56055 of the  
16 Education Code, *and for decisions relating to developmental*  
17 *services, the foster parent, relative caregiver, or nonrelative*  
18 *extended family member of the planned permanent living*  
19 *arrangement shall become the authorized representative for the*  
20 *child pursuant to Section 4701.6 unless the court specifies*  
21 *otherwise in a court order.*

22 An individual who would have a conflict of interest in  
23 representing the child, as specified under federal regulations, may  
24 not be appointed to make educational decisions. *The limitations*  
25 *applicable to conflicts of interest for educational rights holders*  
26 *shall also apply to authorized representatives for developmental*  
27 *services decisions pursuant to Section 4701.6.* For purposes of this  
28 section, “an individual who would have a conflict of interest,”  
29 means a person having any interests that might restrict or bias his  
30 or her ability to make educational *or developmental services*  
31 decisions, including, but not limited to, those conflicts of interest  
32 prohibited by Section 1126 of the Government Code, and the  
33 receipt of compensation or attorneys’ fees for the provision of  
34 services pursuant to this section. A foster parent may not be deemed  
35 to have a conflict of interest solely because he or she receives  
36 compensation for the provision of services pursuant to this section.

37 If the court is unable to appoint a responsible adult to make  
38 educational decisions for the child and paragraphs (1) to (5),  
39 inclusive, do not apply, and the child has either been referred to  
40 the local educational agency for special education and related

1 services, or has a valid individualized education program, the court  
2 shall refer the child to the local educational agency for appointment  
3 of a surrogate parent pursuant to Section 7579.5 of the Government  
4 Code.

5 All educational and school placement decisions shall seek to  
6 ensure that the child is in the least restrictive educational programs  
7 and has access to the academic resources, services, and  
8 extracurricular and enrichment activities that are available to all  
9 pupils. In all instances, educational and school placement decisions  
10 shall be based on the best interests of the child.

11 (c) If the minor is removed from the physical custody of his or  
12 her parent or guardian as the result of an order of wardship made  
13 pursuant to Section 602, the order shall specify that the minor may  
14 not be held in physical confinement for a period in excess of the  
15 maximum term of imprisonment which could be imposed upon an  
16 adult convicted of the offense or offenses which brought or  
17 continued the minor under the jurisdiction of the juvenile court.

18 As used in this section and in Section 731, “maximum term of  
19 imprisonment” means the longest of the three time periods set  
20 forth in paragraph (2) of subdivision (a) of Section 1170 of the  
21 Penal Code, but without the need to follow the provisions of  
22 subdivision (b) of Section 1170 of the Penal Code or to consider  
23 time for good behavior or participation pursuant to Sections 2930,  
24 2931, and 2932 of the Penal Code, plus enhancements which must  
25 be proven if pled.

26 If the court elects to aggregate the period of physical confinement  
27 on multiple counts or multiple petitions, including previously  
28 sustained petitions adjudging the minor a ward within Section 602,  
29 the “maximum term of imprisonment” shall be the aggregate term  
30 of imprisonment specified in subdivision (a) of Section 1170.1 of  
31 the Penal Code, which includes any additional term imposed  
32 pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal  
33 Code, and Section 11370.2 of the Health and Safety Code.

34 If the charged offense is a misdemeanor or a felony not included  
35 within the scope of Section 1170 of the Penal Code, the “maximum  
36 term of imprisonment” is the longest term of imprisonment  
37 prescribed by law.

38 “Physical confinement” means placement in a juvenile hall,  
39 ranch, camp, forestry camp or secure juvenile home pursuant to  
40 Section 730, or in any institution operated by the Youth Authority.

1 This section does not limit the power of the court to retain  
2 jurisdiction over a minor and to make appropriate orders pursuant  
3 to Section 727 for the period permitted by Section 607.

4 *SEC. 5. Section 4514 of the Welfare and Institutions Code, as*  
5 *amended by Section 100 of Chapter 178 of the Statutes of 2010,*  
6 *is amended to read:*

7 4514. All information and records obtained in the course of  
8 providing intake, assessment, and services under Division 4.1  
9 (commencing with Section 4400), Division 4.5 (commencing with  
10 Section 4500), Division 6 (commencing with Section 6000), or  
11 Division 7 (commencing with Section 7100) to persons with  
12 developmental disabilities shall be confidential. Information and  
13 records obtained in the course of providing similar services to  
14 either voluntary or involuntary recipients prior to 1969 shall also  
15 be confidential. Information and records shall be disclosed only  
16 in any of the following cases:

17 (a) In communications between qualified professional persons,  
18 whether employed by a regional center or state developmental  
19 center, or not, in the provision of intake, assessment, and services  
20 or appropriate referrals. The consent of the person with a  
21 developmental disability, or his or her guardian or conservator,  
22 shall be obtained before information or records may be disclosed  
23 by regional center or state developmental center personnel to a  
24 professional not employed by the regional center or state  
25 developmental center, or a program not vendored by a regional  
26 center or state developmental center.

27 (b) When the person with a developmental disability, who has  
28 the capacity to give informed consent, designates individuals to  
29 whom information or records may be released, except that nothing  
30 in this chapter shall be construed to compel a physician,  
31 psychologist, social worker, marriage and family therapist, nurse,  
32 attorney, or other professional to reveal information that has been  
33 given to him or her in confidence by a family member of the person  
34 unless a valid release has been executed by that family member.

35 (c) To the extent necessary for a claim, or for a claim or  
36 application to be made on behalf of a person with a developmental  
37 disability for aid, insurance, government benefit, or medical  
38 assistance to which he or she may be entitled.

39 (d) If the person with a developmental disability is a minor,  
40 *dependent*, ward, or conservatee, and his or her parent, guardian,

1 conservator, ~~or~~ limited conservator with access to confidential  
2 records, *or authorized representative*, designates, in writing,  
3 persons to whom records or information may be disclosed, except  
4 that nothing in this chapter shall be construed to compel a  
5 physician, psychologist, social worker, marriage and family  
6 therapist, nurse, attorney, or other professional to reveal  
7 information that has been given to him or her in confidence by a  
8 family member of the person unless a valid release has been  
9 executed by that family member.

10 (e) For research, provided that the Director of Developmental  
11 Services designates by regulation rules for the conduct of research  
12 and requires the research to be first reviewed by the appropriate  
13 institutional review board or boards. These rules shall include, but  
14 need not be limited to, the requirement that all researchers shall  
15 sign an oath of confidentiality as follows:

16  
17 “ \_\_\_\_\_  
18 Date

19  
20 As a condition of doing research concerning persons with  
21 developmental disabilities who have received services from \_\_\_\_  
22 (fill in the facility, agency or person), I, \_\_\_\_, agree to obtain the  
23 prior informed consent of persons who have received services to  
24 the maximum degree possible as determined by the appropriate  
25 institutional review board or boards for protection of human  
26 subjects reviewing my research, or the person’s parent, guardian,  
27 or conservator, and I further agree not to divulge any information  
28 obtained in the course of the research to unauthorized persons, and  
29 not to publish or otherwise make public any information regarding  
30 persons who have received services so those persons who received  
31 services are identifiable.

32 I recognize that the unauthorized release of confidential  
33 information may make me subject to a civil action under provisions  
34 of the Welfare and Institutions Code.

35  
36 \_\_\_\_\_”  
37 Signed

38  
39 (f) To the courts, as necessary to the administration of justice.



1 (g) To governmental law enforcement agencies as needed for  
2 the protection of federal and state elective constitutional officers  
3 and their families.

4 (h) To the Senate Committee on Rules or the Assembly  
5 Committee on Rules for the purposes of legislative investigation  
6 authorized by the committee.

7 (i) To the courts and designated parties as part of a regional  
8 center report or assessment in compliance with a statutory or  
9 regulatory requirement, including, but not limited to, Section  
10 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the  
11 Penal Code, Section 6502 of the Welfare and Institutions Code,  
12 and Section 56557 of Title 17 of the California Code of  
13 Regulations.

14 (j) To the attorney for the person with a developmental disability  
15 in any and all proceedings upon presentation of a release of  
16 information signed by the person, except that when the person  
17 lacks the capacity to give informed consent, the regional center or  
18 state developmental center director or designee, upon satisfying  
19 himself or herself of the identity of the attorney, and of the fact  
20 that the attorney represents the person, shall release all information  
21 and records relating to the person except that nothing in this article  
22 shall be construed to compel a physician, psychologist, social  
23 worker, marriage and family therapist, nurse, attorney, or other  
24 professional to reveal information that has been given to him or  
25 her in confidence by a family member of the person unless a valid  
26 release has been executed by that family member.

27 (k) Upon written consent by a person with a developmental  
28 disability previously or presently receiving services from a regional  
29 center or state developmental center, the director of the regional  
30 center or state developmental center, or his or her designee, may  
31 release any information, except information that has been given  
32 in confidence by members of the family of the person with  
33 developmental disabilities, requested by a probation officer charged  
34 with the evaluation of the person after his or her conviction of a  
35 crime if the regional center or state developmental center director  
36 or designee determines that the information is relevant to the  
37 evaluation. The consent shall only be operative until sentence is  
38 passed on the crime of which the person was convicted. The  
39 confidential information released pursuant to this subdivision shall  
40 be transmitted to the court separately from the probation report

1 and shall not be placed in the probation report. The confidential  
2 information shall remain confidential except for purposes of  
3 sentencing. After sentencing, the confidential information shall be  
4 sealed.

5 (l) Between persons who are trained and qualified to serve on  
6 “multidisciplinary personnel” teams pursuant to subdivision (d)  
7 of Section 18951. The information and records sought to be  
8 disclosed shall be relevant to the prevention, identification,  
9 management, or treatment of an abused child and his or her parents  
10 pursuant to Chapter 11 (commencing with Section 18950) of Part  
11 6 of Division 9.

12 (m) When a person with a developmental disability dies from  
13 any cause, natural or otherwise, while hospitalized in a state  
14 developmental center, the State Department of Developmental  
15 Services, the physician in charge of the client, or the professional  
16 in charge of the facility or his or her designee, shall release  
17 information and records to the coroner. The State Department of  
18 Developmental Services, the physician in charge of the client, or  
19 the professional in charge of the facility or his or her designee,  
20 shall not release any notes, summaries, transcripts, tapes, or records  
21 of conversations between the resident and health professional  
22 personnel of the hospital relating to the personal life of the resident  
23 that is not related to the diagnosis and treatment of the resident’s  
24 physical condition. Any information released to the coroner  
25 pursuant to this section shall remain confidential and shall be sealed  
26 and shall not be made part of the public record.

27 (n) To authorized licensing personnel who are employed by, or  
28 who are authorized representatives of, the State Department of  
29 Health Services, and who are licensed or registered health  
30 professionals, and to authorized legal staff or special investigators  
31 who are peace officers who are employed by, or who are authorized  
32 representatives of, the State Department of Social Services, as  
33 necessary to the performance of their duties to inspect, license,  
34 and investigate health facilities and community care facilities, and  
35 to ensure that the standards of care and services provided in these  
36 facilities are adequate and appropriate and to ascertain compliance  
37 with the rules and regulations to which the facility is subject. The  
38 confidential information shall remain confidential except for  
39 purposes of inspection, licensing, or investigation pursuant to  
40 Chapter 2 (commencing with Section 1250) and Chapter 3

(commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or

1 unlawful possession of a weapon, as provided in any provision  
2 listed in Section 16590 of the Penal Code.

3 This subdivision shall be limited solely to information directly  
4 relating to the factual circumstances of the commission of the  
5 enumerated offenses and shall not include any information relating  
6 to the mental state of the patient or the circumstances of his or her  
7 treatment unless relevant to the crime involved.

8 This subdivision shall not be construed as an exception to, or in  
9 any other way affecting, the provisions of Article 7 (commencing  
10 with Section 1010) of Chapter 4 of Division 8 of the Evidence  
11 Code, or Chapter 11 (commencing with Section 15600) and  
12 Chapter 13 (commencing with Section 15750) of Part 3 of Division  
13 9.

14 (q) To the Youth Authority and Adult Correctional Agency or  
15 any component thereof, as necessary to the administration of  
16 justice.

17 (r) To an agency mandated to investigate a report of abuse filed  
18 pursuant to either Section 11164 of the Penal Code or Section  
19 15630 of the Welfare and Institutions Code for the purposes of  
20 either a mandated or voluntary report or when those agencies  
21 request information in the course of conducting their investigation.

22 (s) When a person with developmental disabilities, or the parent,  
23 guardian, or conservator of a person with developmental disabilities  
24 who lacks capacity to consent, fails to grant or deny a request by  
25 a regional center or state developmental center to release  
26 information or records relating to the person with developmental  
27 disabilities within a reasonable period of time, the director of the  
28 regional or developmental center, or his or her designee, may  
29 release information or records on behalf of that person provided  
30 both of the following conditions are met:

31 (1) Release of the information or records is deemed necessary  
32 to protect the person's health, safety, or welfare.

33 (2) The person, or the person's parent, guardian, or conservator,  
34 has been advised annually in writing of the policy of the regional  
35 center or state developmental center for release of confidential  
36 client information or records when the person with developmental  
37 disabilities, or the person's parent, guardian, or conservator, fails  
38 to respond to a request for release of the information or records  
39 within a reasonable period of time. A statement of policy contained

1 in the client's individual program plan shall be deemed to comply  
2 with the notice requirement of this paragraph.

3 (t) (1) When an employee is served with a notice of adverse  
4 action, as defined in Section 19570 of the Government Code, the  
5 following information and records may be released:

6 (A) All information and records that the appointing authority  
7 relied upon in issuing the notice of adverse action.

8 (B) All other information and records that are relevant to the  
9 adverse action, or that would constitute relevant evidence as  
10 defined in Section 210 of the Evidence Code.

11 (C) The information described in subparagraphs (A) and (B)  
12 may be released only if both of the following conditions are met:

13 (i) The appointing authority has provided written notice to the  
14 consumer and the consumer's legal representative or, if the  
15 consumer has no legal representative or if the legal representative  
16 is a state agency, to the clients' rights advocate, and the consumer,  
17 the consumer's legal representative, or the clients' rights advocate  
18 has not objected in writing to the appointing authority within five  
19 business days of receipt of the notice, or the appointing authority,  
20 upon review of the objection has determined that the circumstances  
21 on which the adverse action is based are egregious or threaten the  
22 health, safety, or life of the consumer or other consumers and  
23 without the information the adverse action could not be taken.

24 (ii) The appointing authority, the person against whom the  
25 adverse action has been taken, and the person's representative, if  
26 any, have entered into a stipulation that does all of the following:

27 (I) Prohibits the parties from disclosing or using the information  
28 or records for any purpose other than the proceedings for which  
29 the information or records were requested or provided.

30 (II) Requires the employee and the employee's legal  
31 representative to return to the appointing authority all records  
32 provided to them under this subdivision, including, but not limited  
33 to, all records and documents or copies thereof that are no longer  
34 in the possession of the employee or the employee's legal  
35 representative because they were from any source containing  
36 confidential information protected by this section, and all copies  
37 of those records and documents, within 10 days of the date that  
38 the adverse action becomes final except for the actual records and  
39 documents submitted to the administrative tribunal as a component  
40 of an appeal from the adverse action.

1 (III) Requires the parties to submit the stipulation to the  
2 administrative tribunal with jurisdiction over the adverse action  
3 at the earliest possible opportunity.

4 (2) For the purposes of this subdivision, the State Personnel  
5 Board may, prior to any appeal from adverse action being filed  
6 with it, issue a protective order, upon application by the appointing  
7 authority, for the limited purpose of prohibiting the parties from  
8 disclosing or using information or records for any purpose other  
9 than the proceeding for which the information or records were  
10 requested or provided, and to require the employee or the  
11 employee's legal representative to return to the appointing authority  
12 all records provided to them under this subdivision, including, but  
13 not limited to, all records and documents from any source  
14 containing confidential information protected by this section, and  
15 all copies of those records and documents, within 10 days of the  
16 date that the adverse action becomes final, except for the actual  
17 records and documents that are no longer in the possession of the  
18 employee or the employee's legal representatives because they  
19 were submitted to the administrative tribunal as a component of  
20 an appeal from the adverse action.

21 (3) Individual identifiers, including, but not limited to, names,  
22 social security numbers, and hospital numbers, that are not  
23 necessary for the prosecution or defense of the adverse action,  
24 shall not be disclosed.

25 (4) All records, documents, or other materials containing  
26 confidential information protected by this section that have been  
27 submitted or otherwise disclosed to the administrative agency or  
28 other person as a component of an appeal from an adverse action  
29 shall, upon proper motion by the appointing authority to the  
30 administrative tribunal, be placed under administrative seal and  
31 shall not, thereafter, be subject to disclosure to any person or entity  
32 except upon the issuance of an order of a court of competent  
33 jurisdiction.

34 (5) For purposes of this subdivision, an adverse action becomes  
35 final when the employee fails to answer within the time specified  
36 in Section 19575 of the Government Code, or, after filing an  
37 answer, withdraws the appeal, or, upon exhaustion of the  
38 administrative appeal or of the judicial review remedies as  
39 otherwise provided by law.

1     *SEC. 6. Section 4646 of the Welfare and Institutions Code is*  
2     *amended to read:*

3     4646. (a) It is the intent of the Legislature to ensure that the  
4     individual program plan and provision of services and supports  
5     by the regional center system is centered on the individual and the  
6     family of the individual with developmental disabilities and takes  
7     into account the needs and preferences of the individual and the  
8     family, where appropriate, as well as promoting community  
9     integration, independent, productive, and normal lives, and stable  
10    and healthy environments. It is the further intent of the Legislature  
11    to ensure that the provision of services to consumers and their  
12    families be effective in meeting the goals stated in the individual  
13    program plan, reflect the preferences and choices of the consumer,  
14    and reflect the cost-effective use of public resources.

15    (b) The individual program plan is developed through a process  
16    of individualized needs determination. The individual with  
17    developmental disabilities and, where appropriate, his or her  
18    parents, legal guardian or conservator, or authorized representative,  
19    shall have the opportunity to actively participate in the development  
20    of the plan.

21    (c) An individual program plan shall be developed for any  
22    person who, following intake and assessment, is found to be  
23    eligible for regional center services. These plans shall be completed  
24    within 60 days of the completion of the assessment. At the time  
25    of intake, the regional center shall inform the consumer and, where  
26    appropriate, his or her parents, legal guardian or conservator, or  
27    authorized representative, of the services available through the  
28    local area board and the protection and advocacy agency designated  
29    by the Governor pursuant to federal law, and shall provide the  
30    address and telephone numbers of those agencies.

31    (d) Individual program plans shall be prepared jointly by the  
32    planning team. Decisions concerning the consumer's goals,  
33    objectives, and services and supports that will be included in the  
34    consumer's individual program plan and purchased by the regional  
35    center or obtained from generic agencies shall be made by  
36    agreement between the regional center representative and the  
37    consumer or, where appropriate, the parents, legal guardian,  
38    conservator, or authorized representative at the program plan  
39    meeting.

(e) Regional centers shall comply with the request of a consumer, or where appropriate, the request of his or her parents, legal guardian, ~~or conservator, or authorized representative~~, that a designated representative receive written notice of all meetings to develop or revise his or her individual program plan and of all notices sent to the consumer pursuant to Section 4710. The designated representative may be a parent or family member.

(f) If a final agreement regarding the services and supports to be provided to the consumer cannot be reached at a program plan meeting, then a subsequent program plan meeting shall be convened within 15 days, or later at the request of the consumer or, when appropriate, the parents, legal guardian, conservator, or authorized representative or when agreed to by the planning team. Additional program plan meetings may be held with the agreement of the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative.

(g) An authorized representative of the regional center and the consumer or, where appropriate, his or her parents, legal guardian, ~~or conservator, or authorized representative~~ shall sign the individual program plan prior to its implementation. If the consumer or, where appropriate, his or her parents, legal guardian, ~~or conservator, or authorized representative~~, does not agree with all components of the plan, ~~they~~ *he or she* may indicate that disagreement on the plan. Disagreement with specific plan components shall not prohibit the implementation of services and supports agreed to by the consumer or, where appropriate, his or her parents, legal guardian, ~~or conservator, or authorized representative~~. If the consumer or, where appropriate, his or her parents, legal guardian, ~~or conservator, or authorized representative~~, does not agree with the plan in whole or in part, he or she shall be sent written notice of the fair hearing rights, as required by Section 4701.

SEC. 7. Section 4646.5 of the Welfare and Institutions Code is amended to read:

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:

(1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with



1 developmental disabilities. For children with developmental  
2 disabilities, this process should include a review of the strengths,  
3 preferences, and needs of the child and the family unit as a whole.  
4 Assessments shall be conducted by qualified individuals and  
5 performed in natural environments whenever possible. Information  
6 shall be taken from the consumer, his or her parents and other  
7 family members, his or her friends, advocates, *authorized*  
8 *representative if applicable*, providers of services and supports,  
9 and other agencies. The assessment process shall reflect awareness  
10 of, and sensitivity to, the lifestyle and cultural background of the  
11 consumer and the family.

12 (2) A statement of goals, based on the needs, preferences, and  
13 life choices of the individual with developmental disabilities, and  
14 a statement of specific, time-limited objectives for implementing  
15 the person's goals and addressing his or her needs. These objectives  
16 shall be stated in terms that allow measurement of progress or  
17 monitoring of service delivery. These goals and objectives should  
18 maximize opportunities for the consumer to develop relationships,  
19 be part of community life in the areas of community participation,  
20 housing, work, school, and leisure, increase control over his or her  
21 life, acquire increasingly positive roles in community life, and  
22 develop competencies to help accomplish these goals.

23 (3) When developing individual program plans for children,  
24 regional centers shall be guided by the principles, process, and  
25 services and support parameters set forth in Section 4685.

26 (4) A schedule of the type and amount of services and supports  
27 to be purchased by the regional center or obtained from generic  
28 agencies or other resources in order to achieve the individual  
29 program plan goals and objectives, and identification of the  
30 provider or providers of service responsible for attaining each  
31 objective, including, but not limited to, vendors, contracted  
32 providers, generic service agencies, and natural supports. The plan  
33 shall specify the approximate scheduled start date for services and  
34 supports and shall contain timelines for actions necessary to begin  
35 services and supports, including generic services.

36 (5) When agreed to by the consumer, the parents~~or~~, legally  
37 appointed guardian, *or authorized representative* of a minor  
38 consumer, or the legally appointed conservator of an adult  
39 consumer or the authorized representative, including those  
40 appointed pursuant to subdivision (d) of Section 4548 and

subdivision (e) of Section 4705, a review of the general health status of the adult or child including a medical, dental, and mental health needs shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator.

(6) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation.

(b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, *authorized representative*, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted.

(c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embodies an approach centered on the person and family.

(2) Each regional center shall use the training materials and format prepared by the department pursuant to paragraph (1).

(3) The department shall biennially review a random sample of individual program plans at each regional center to assure that these plans are being developed and modified in compliance with Section 4646 and this section.

*SEC. 8. Section 4648 of the Welfare and Institutions Code is amended to read:*

1     4648. In order to achieve the stated objectives of a consumer's  
2 individual program plan, the regional center shall conduct activities,  
3 including, but not limited to, all of the following:

4     (a) Securing needed services and supports.

5     (1) It is the intent of the Legislature that services and supports  
6 assist individuals with developmental disabilities in achieving the  
7 greatest self-sufficiency possible and in exercising personal  
8 choices. The regional center shall secure services and supports  
9 that meet the needs of the consumer, as determined in the  
10 consumer's individual program plan, and within the context of the  
11 individual program plan, the planning team shall give highest  
12 preference to those services and supports which would allow  
13 minors with developmental disabilities to live with their families,  
14 adult persons with developmental disabilities to live as  
15 independently as possible in the community, and that allow all  
16 consumers to interact with persons without disabilities in positive,  
17 meaningful ways.

18     (2) In implementing individual program plans, regional centers,  
19 through the planning team, shall first consider services and supports  
20 in natural community, home, work, and recreational settings.  
21 Services and supports shall be flexible and individually tailored  
22 to the consumer and, where appropriate, his or her family.

23     (3) A regional center may, pursuant to vendorization or a  
24 contract, purchase services or supports for a consumer from any  
25 individual or agency which the regional center and consumer or,  
26 where appropriate, his or her parents, legal guardian, or  
27 conservator, or authorized representatives, determines will best  
28 accomplish all or any part of that consumer's program plan.

29     (A) Vendorization or contracting is the process for identification,  
30 selection, and utilization of service vendors or contractors, based  
31 on the qualifications and other requirements necessary in order to  
32 provide the service.

33     (B) A regional center may reimburse an individual or agency  
34 for services or supports provided to a regional center consumer if  
35 the individual or agency has a rate of payment for vendored or  
36 contracted services established by the department, pursuant to this  
37 division, and is providing services pursuant to an emergency  
38 vendorization or has completed the vendorization procedures or  
39 has entered into a contract with the regional center and continues  
40 to comply with the vendorization or contracting requirements. The

1 director shall adopt regulations governing the vendorization process  
2 to be utilized by the department, regional centers, vendors and the  
3 individual or agency requesting vendorization.

4 (C) Regulations shall include, but not be limited to: the vendor  
5 application process, and the basis for accepting or denying an  
6 application; the qualification and requirements for each category  
7 of services that may be provided to a regional center consumer  
8 through a vendor; requirements for emergency vendorization;  
9 procedures for termination of vendorization; the procedure for an  
10 individual or an agency to appeal any vendorization decision made  
11 by the department or regional center.

12 (D) A regional center may vendorize a licensed facility for  
13 exclusive services to persons with developmental disabilities at a  
14 capacity equal to or less than the facility's licensed capacity. A  
15 facility already licensed on January 1, 1999, shall continue to be  
16 vendorized at their full licensed capacity until the facility agrees  
17 to vendorization at a reduced capacity.

18 (E) Effective July 1, 2009, notwithstanding any other provision  
19 of law or regulation to the contrary, a regional center shall not  
20 newly vendor a State Department of Social Services licensed  
21 24-hour residential care facility with a licensed capacity of 16 or  
22 more beds, unless the facility qualifies for receipt of federal funds  
23 under the Medicaid Program.

24 (4) Notwithstanding subparagraph (B), a regional center may  
25 contract or issue a voucher for services and supports provided to  
26 a consumer or family at a cost not to exceed the maximum rate of  
27 payment for that service or support established by the department.  
28 If a rate has not been established by the department, the regional  
29 center may, for an interim period, contract for a specified service  
30 or support with, and establish a rate of payment for, any provider  
31 of the service or support necessary to implement a consumer's  
32 individual program plan. Contracts may be negotiated for a period  
33 of up to three years, with annual review and subject to the  
34 availability of funds.

35 (5) In order to ensure the maximum flexibility and availability  
36 of appropriate services and supports for persons with  
37 developmental disabilities, the department shall establish and  
38 maintain an equitable system of payment to providers of services  
39 and supports identified as necessary to the implementation of a  
40 consumers' individual program plan. The system of payment shall

1 include provision for a rate to ensure that the provider can meet  
2 the special needs of consumers and provide quality services and  
3 supports in the least restrictive setting as required by law.

4 (6) The regional center and the consumer, or where appropriate,  
5 his or her parents, legal guardian, conservator, or authorized  
6 representative, including those appointed pursuant to subdivision  
7 (d) of Section 4548 or subdivision (e) of Section 4705, shall,  
8 pursuant to the individual program plan, consider all of the  
9 following when selecting a provider of consumer services and  
10 supports:

11 (A) A provider's ability to deliver quality services or supports  
12 which can accomplish all or part of the consumer's individual  
13 program plan.

14 (B) A provider's success in achieving the objectives set forth  
15 in the individual program plan.

16 (C) Where appropriate, the existence of licensing, accreditation,  
17 or professional certification.

18 (D) The cost of providing services or supports of comparable  
19 quality by different providers, if available, shall be reviewed, and  
20 the least costly available provider of comparable service, including  
21 the cost of transportation, who is able to accomplish all or part of  
22 the consumer's individual program plan, consistent with the  
23 particular needs of the consumer and family as identified in the  
24 individual program plan, shall be selected. In determining the least  
25 costly provider, the availability of federal financial participation  
26 shall be considered. The consumer shall not be required to use the  
27 least costly provider if it will result in the consumer moving from  
28 an existing provider of services or supports to more restrictive or  
29 less integrated services or supports.

30 (E) The consumer's *choice of providers*, or, where appropriate,  
31 ~~the parents, legal guardian, or conservator of a consumer's parent's,~~  
32 *legal guardian's, authorized representative's, or conservator's*  
33 *choice of providers.*

34 (7) No service or support provided by any agency or individual  
35 shall be continued unless the consumer or, where appropriate, his  
36 or her parents, legal guardian, or conservator, or authorized  
37 representative, including those appointed pursuant to subdivision  
38 (d) of Section 4548, *subdivision (b) of Section 4701.6*, or  
39 subdivision (e) of Section 4705, is satisfied and the regional center  
40 and the consumer or, when appropriate, the person's parents or

1 legal guardian or conservator agree that planned services and  
2 supports have been provided, and reasonable progress toward  
3 objectives have been made.

4 (8) Regional center funds shall not be used to supplant the  
5 budget of any agency which has a legal responsibility to serve all  
6 members of the general public and is receiving public funds for  
7 providing those services.

8 (9) (A) A regional center may, directly or through an agency  
9 acting on behalf of the center, provide placement in, purchase of,  
10 or follow-along services to persons with developmental disabilities  
11 in, appropriate community living arrangements, including, but not  
12 limited to, support service for consumers in homes they own or  
13 lease, foster family placements, health care facilities, and licensed  
14 community care facilities. In considering appropriate placement  
15 alternatives for children with developmental disabilities, approval  
16 by the child's parent or guardian shall be obtained before placement  
17 is made.

18 (B) Effective July 1, 2012, notwithstanding any other provision  
19 of law or regulation to the contrary, a regional center shall not  
20 purchase residential services from a State Department of Social  
21 Services licensed 24-hour residential care facility with a licensed  
22 capacity of 16 or more beds. This prohibition on regional center  
23 purchase of residential services shall not apply to either of the  
24 following:

25 (i) A residential facility with a licensed capacity of 16 or more  
26 beds that has been approved to participate in the department's  
27 Home and Community Based Services Waiver or another existing  
28 waiver program or certified to participate in the Medi-Cal program.

29 (ii) A residential facility service provider that has a written  
30 agreement and specific plan prior to July 1, 2012, with the  
31 vendoring regional center to downsize the existing facility by  
32 transitioning its residential services to living arrangements of 15  
33 beds or less or restructure the large facility to meet federal  
34 Medicaid eligibility requirements on or before June 30, 2013.

35 (C) Each person with developmental disabilities placed by the  
36 regional center in a community living arrangement shall have the  
37 rights specified in this division. These rights shall be brought to  
38 the person's attention by any means necessary to reasonably  
39 communicate these rights to each resident, provided that, at a  
40 minimum, the Director of Developmental Services prepare,

1 provide, and require to be clearly posted in all residential facilities  
2 and day programs a poster using simplified language and pictures  
3 that is designed to be more understandable by persons with  
4 cognitive disabilities and that the rights information shall also be  
5 available through the regional center to each residential facility  
6 and day program in alternative formats, including, but not limited  
7 to, other languages, braille, and audio tapes, when necessary to  
8 meet the communication needs of consumers.

9 (D) Consumers are eligible to receive supplemental services  
10 including, but not limited to, additional staffing, pursuant to the  
11 process described in subdivision (d) of Section 4646. Necessary  
12 additional staffing that is not specifically included in the rates paid  
13 to the service provider may be purchased by the regional center if  
14 the additional staff are in excess of the amount required by  
15 regulation and the individual's planning team determines the  
16 additional services are consistent with the provisions of the  
17 individual program plan. Additional staff should be periodically  
18 reviewed by the planning team for consistency with the individual  
19 program plan objectives in order to determine if continued use of  
20 the additional staff is necessary and appropriate and if the service  
21 is producing outcomes consistent with the individual program plan.  
22 Regional centers shall monitor programs to ensure that the  
23 additional staff is being provided and utilized appropriately.

24 (10) Emergency and crisis intervention services including, but  
25 not limited to, mental health services and behavior modification  
26 services, may be provided, as needed, to maintain persons with  
27 developmental disabilities in the living arrangement of their own  
28 choice. Crisis services shall first be provided without disrupting a  
29 person's living arrangement. If crisis intervention services are  
30 unsuccessful, emergency housing shall be available in the person's  
31 home community. If dislocation cannot be avoided, every effort  
32 shall be made to return the person to his or her living arrangement  
33 of choice, with all necessary supports, as soon as possible.

34 (11) Among other service and support options, planning teams  
35 shall consider the use of paid roommates or neighbors, personal  
36 assistance, technical and financial assistance, and all other service  
37 and support options which would result in greater self-sufficiency  
38 for the consumer and cost-effectiveness to the state.

1 (12) When facilitation as specified in an individual program  
2 plan requires the services of an individual, the facilitator shall be  
3 of the consumer's choosing.

4 (13) The community support may be provided to assist  
5 individuals with developmental disabilities to fully participate in  
6 community and civic life, including, but not limited to, programs,  
7 services, work opportunities, business, and activities available to  
8 persons without disabilities. This facilitation shall include, but not  
9 be limited to, any of the following:

10 (A) Outreach and education to programs and services within  
11 the community.

12 (B) Direct support to individuals which would enable them to  
13 more fully participate in their community.

14 (C) Developing unpaid natural supports when possible.

15 (14) Other services and supports may be provided as set forth  
16 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

17 (15) Notwithstanding any other provision of law or regulation  
18 to the contrary, effective July 1, 2009, regional centers shall not  
19 purchase experimental treatments, therapeutic services, or devices  
20 that have not been clinically determined or scientifically proven  
21 to be effective or safe or for which risks and complications are  
22 unknown. Experimental treatments or therapeutic services include  
23 experimental medical or nutritional therapy when the use of the  
24 product for that purpose is not a general physician practice. For  
25 regional center consumers receiving these services as part of their  
26 individual program plan (IPP) or individualized family service  
27 plan (IFSP) on July 1, 2009, this prohibition shall apply on August  
28 1, 2009.

29 (b) (1) Advocacy for, and protection of, the civil, legal, and  
30 service rights of persons with developmental disabilities as  
31 established in this division.

32 (2) Whenever the advocacy efforts of a regional center to secure  
33 or protect the civil, legal, or service rights of any of its consumers  
34 prove ineffective, the regional center or the person with  
35 developmental disabilities or his or her parents, legal guardian, or  
36 other representative may request the area board to initiate action  
37 under the provisions defining area board advocacy functions  
38 established in this division.



1 (c) The regional center may assist consumers and families  
2 directly, or through a provider, in identifying and building circles  
3 of support within the community.

4 (d) In order to increase the quality of community services and  
5 protect consumers, the regional center shall, when appropriate,  
6 take either of the following actions:

7 (1) Identify services and supports that are ineffective or of poor  
8 quality and provide or secure consultation, training, or technical  
9 assistance services for any agency or individual provider to assist  
10 that agency or individual provider in upgrading the quality of  
11 services or supports.

12 (2) Identify providers of services or supports that may not be  
13 in compliance with local, state, and federal statutes and regulations  
14 and notify the appropriate licensing or regulatory authority, or  
15 request the area board to investigate the possible noncompliance.

16 (e) When necessary to expand the availability of needed services  
17 of good quality, a regional center may take actions that include,  
18 but are not limited to, the following:

19 (1) Soliciting an individual or agency by requests for proposals  
20 or other means, to provide needed services or supports not presently  
21 available.

22 (2) Requesting funds from the Program Development Fund,  
23 pursuant to Section 4677, or community placement plan funds  
24 designated from that fund, to reimburse the startup costs needed  
25 to initiate a new program of services and supports.

26 (3) Using creative and innovative service delivery models,  
27 including, but not limited to, natural supports.

28 (f) Except in emergency situations, a regional center shall not  
29 provide direct treatment and therapeutic services, but shall utilize  
30 appropriate public and private community agencies and service  
31 providers to obtain those services for its consumers.

32 (g) Where there are identified gaps in the system of services  
33 and supports or where there are identified consumers for whom  
34 no provider will provide services and supports contained in his or  
35 her individual program plan, the department may provide the  
36 services and supports directly.

37 (h) At least annually, regional centers shall provide the  
38 consumer, his or her parents, legal guardian, conservator, or  
39 authorized representative a statement of services and supports the  
40 regional center purchased for the purpose of ensuring that they are

1 delivered. The statement shall include the type, unit, month, and  
2 cost of services and supports purchased.

3 *SEC. 9. Section 4701.6 of the Welfare and Institutions Code*  
4 *is amended to read:*

5 4701.6. (a) “Authorized representative” means the conservator  
6 of an adult, the guardian, conservator, or parent or person having  
7 legal custody of a minor claimant, or a person or agency appointed  
8 pursuant to subdivision (d) of Section 4548 or subdivision (e) of  
9 Section 4705 and authorized in writing by the claimant or by the  
10 legal guardian, conservator, or parent or person having legal  
11 custody of a minor claimant to act for or represent the claimant  
12 under this chapter.

13 (b) (1) “Authorized representative” also means a responsible  
14 adult appointed by a court order made pursuant to subdivision (g)  
15 of Section 319, subdivision (a) of Section 361, or subdivision (b)  
16 of Section 726, who the court determines is an appropriate  
17 representative for the minor, and who does not have a conflict of  
18 interest, as defined in subdivision (i) of Section 7579.5 of the  
19 Government Code, including, but not limited to, a foster parent,  
20 caregiver, or court appointed special advocate.

21 (2) Notwithstanding any other law, an authorized representative  
22 designated through a court order described in this subdivision  
23 shall have the right to access the minor’s information and records,  
24 the right to participate in the individual program planning process,  
25 and the right to participate in the fair hearing process for the  
26 minor to the same extent as provided under law to the minor’s  
27 parents, legal guardian, or conservator. Representation shall also  
28 include the ability to provide written consent for purposes of  
29 establishing eligibility for regional center services and supports  
30 for the minor, as well as for the purpose of individual program  
31 plan development and revision, including, but not limited to, the  
32 authorization of assessments of, and the provision of services to,  
33 the minor.

34 ~~SECTION 1. The Legislature finds and declares as follows:~~

35 ~~(a) Persons desiring to provide, or continue to provide, foster~~  
36 ~~care should receive training in order to assist them in being~~  
37 ~~effective substitute caregivers, and to enhance the safety and~~  
38 ~~growth of the children placed with them.~~

1 ~~(b) There is a need to develop a basic curriculum, a program~~  
2 ~~for continuing education, and specialized training for foster parents~~  
3 ~~caring for children with unique needs.~~

4 SEC. 2. ~~Section 1529.3 is added to the Health and Safety Code,~~  
5 ~~to read:~~

6 ~~1529.3. (a) As a part of the training required by this article, if~~  
7 ~~a foster parent intends to begin or continue to care for youth 14~~  
8 ~~years of age or older, in order to provide the foster parent with the~~  
9 ~~skills and expertise to care for this important population, the foster~~  
10 ~~parent shall receive training in issues relevant to teenagers,~~  
11 ~~including, but not limited to, all of the following subjects:~~

12 ~~(1) Education rights.~~

13 ~~(2) Accessing independent living program services and assisting~~  
14 ~~the teenager with independent living skills.~~

15 ~~(3) College acceptance and financial aid.~~

16 ~~(4) Drug prevention.~~

17 ~~(5) Financial literacy.~~

18 ~~(6) Avoiding teen-parent conflict.~~

19 ~~(b) The training required pursuant to this section shall be~~  
20 ~~included within existing preplacement and postplacement training~~  
21 ~~program requirements, and shall not increase the number of~~  
22 ~~required training hours for the foster parent.~~

23 SEC. 3. ~~No reimbursement is required by this act pursuant to~~  
24 ~~Section 6 of Article XIII B of the California Constitution because~~  
25 ~~the only costs that may be incurred by a local agency or school~~  
26 ~~district will be incurred because this act creates a new crime or~~  
27 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
28 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
29 ~~the Government Code, or changes the definition of a crime within~~  
30 ~~the meaning of Section 6 of Article XIII B of the California~~  
31 ~~Constitution.~~